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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/070,069

03/04/2002

Catherine Mary Dolbear

CM00740P

9255

7590

11/01/2006

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EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,069

Applicant(s)

DOLBEAR ET AL.

Examiner

Andy S. Rao

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/21/06
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-3, 5-11 as filed on 8/21/06 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3, 5-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Wan et al., (hereinafter referred to as "Wan").

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Wan discloses a method of enhancing a video bit stream using temporal scalability (Wan: column 4, lines 5-10), wherein peak signal-to-noise ratios (Wan: column 11, lines 50-60) of bidirectionally predicted pictures (Wan: figure 2) in an enhancement layer are determined with reference to the peak signal-to-noise ratios of pictures in another layer (Wan: column 5, lines 25-35; column 7, lines 50-60), as in claim 1.

Wan discloses a method of enhancing a video bit stream using temporal scalability (Wan: column 4, lines 5-10), wherein the number of bits allocated to encode a bidirectionally predicted picture (Wan: figure 2) of an enhancement layer (Wan: column 4, lines 50-60) is determined with reference to the number of bits used to encode (Wan: column 8, lines 60-67; column 9, lines 1-30) a picture of another layer (Wan: column 10, lines 25-35), as in claim 2.

Wan discloses a method of enhancing a video bit stream using temporal scalability (Wan: column 4, lines 5-10), wherein temporal positions of bidirectionally predicted pictures (Wan: figure 2) in an enhancement layer (Wan: column 4, lines 50-60) are determined to be spaced evenly with reference to temporal positions of pictures in other layers (Wan: column 5, lines 35-40), as in claim 3.

Regarding claim 5, Wan discloses wherein the peak signal-to-noise ratios are made similar (Wan: column 8, lines 40-50), as in the claim.

Regarding claim 6, Wan discloses wherein the other layer is a base layer (Wan: column 4, lines 40-45), as in the claim.

Regarding claim 7, Wan discloses wherein characteristics of more than one picture in another layer are considered (Wan: column 7, lines 35-40), as in the claim.

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Regarding claim 8, Wan discloses a first enhancement layer uses SNR scalability to produce enhanced pictures (Wan: column 4, lines 65-67; column 5, lines 1-10); and a second enhancement layer uses temporal scalability to produce enhanced pictures (Wan: column 5, lines 30-35), based on temporal positions of pictures in the first lower enhancement layer (Wan: figure 2), as in claim 8.

Regarding claim 9, Wan discloses wherein an average number of bits used to define a predicted picture and an average number of bits used to define a picture in the another layer are used to define a weighting value (Wan: column 8, lines 50-67; column 9, lines 1-20), as in the claim.

Regarding claims 10-11, Wan discloses an apparatus which implements a method according to claim 1, the apparatus (Wan: figure 1) including: means for selecting temporal position (Wan: column 5, lines 30-35), PSNR (Wan: column 10, lines 25-35) and/or number of bits of a bidirectionally predicted picture (Wan: figure 2) based on information relating to a picture in another layer (Wan: column 9, lines 1-10), as in the claims.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao
Primary Examiner
Art Unit 2621

asr
October 27, 2006

ANDY RAO
PRIMARY EXAMINER

